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EDITORIAL

"IN THE BICENTENNIAL SPIRIT"

During this year of celebrating the nation's Bicentennial birthday, it has become customary to relate the progress of various sciences, technologies, institutions and industries to the growth of the nation. Through television advertising we have learned that Carrier and Kraft are actually the names of two men who were interested in air conditioning and cheese when the country was much younger and who presumably possessed Yankee ingenuity sufficient to launch giant corporations We have witnessed the evolution of a rag-tag Revolutionary Army into the sophisticated computerized military systems which comprise today's armed forces, and the medical profession has declared its progress in advancing from bleeding the patient to penicillin to chemotherapy. It seems appropriate that the practice of planning in the public sector should also be examined in the Bicentennial Spirit.

Since planning deals, in part, with the allocation of scarce resources, the growth ethic of the past 200 years has brought about a significant increase in planning activity. As we come down to the wire on certain resources such as fossil fuels, agricultural land and natural areas, planning becomes paramount. Paradoxically, it seems that the less there is to plan for, the more planning there is.

Even though planning is much more with us now than it was with our British ancestors and Colonial America, there are certain similarities between then and now which are striking--particularly in regard to laws designed to attain some common contemporary planning activities.

Urban growth controls, apprehensively considered by a few U.S. cities today, were explicit and direct in Elizabethan England as early as 1580. It was in that year that Queen Elizabeth, by proclamation, forbade the construction of any new dwellings within three miles of London. The reason: too many people too close together. "...where there are such great multitude of people brought up together, and in a sort smothered with many families of children in one house..."

Large-lot zoning, one of today's progressive planning tools, was also viewed as a growth managment device in 1588 when an Act of Parliament required at least four acres of land for any new dwelling. "...no person shall, within this realm of England make, build, or erect, or cause to be made...any manner of cottage or

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habitation...unless the same person do assign and lay to the same cottage or building four acres of ground at the least..." This law not only restricted growth in general, it was discriminatory in that it effectively ruled out all but the wealthy from erecting houses.

Regulating private property for both functional and aesthetic purposes, viewed by some today as a questionable exercise of law, was commonplace in 17th century London. Building regulations in London called for the "fore-front" of buildings to be made of "bricke and stone" and also set out rules for the number of stories and window size.

Early land controls in Colonial America dealt with urban development as well as agriculture. Laws were passed by the Virginia House of Burgesses requiring the planting of certain crops and prohibiting "over planting" of others--with substantial penalties for violation. A 1700 Philadelphia regulation required all owners of residential property to plant trees, described the species and set out where they were to be planted relative to each home. "...to the end that said town may be well shaded from the violence of the sun in the heat of summer and thereby be rendered more healthy."

Distant land speculators were dealt with rather directly in 1647 when Peter Stuyvesant and his council decreed that "they must erect on their lots good and convenient houses within nine months... or in default thereof..." lose their property.

A quick look back over many centuries at the commonality and persistence of certain planning objectives and techniques must undoubtedly cause some puzzlement among planners. Puzzlement over why centuries-old ideas are presently rejected as new-fangled concepts, to be held in reserve until possibly needed by some future generation.

We might do well in the Bicentennial Year to get back to some surprising basics.

Hal Price

DCA DIRECTOR CHANGE

Ronald P. Richards, Director of the Department of Community Affairs since 1974, resigned his position in April to become campaign manager for Governor Thomas L. Judge in his bid for re-election.

Appointed by the Governor to replace Richards is Mrs. Judith Carlson, an administrative assistant to Judge. Mrs. Carlson, the first woman to head a major state department, has an extensive background in state and local affairs and was director of the Helena Model Cities program prior to her appointment as state-local coordinator in the Governor's office.

Members of the planning division would like to take this opportunity to publicly commend Ron Richards' performance as director of the department and wish him well in his new task. We also welcome Judy aboard and look forward to her leadership and sharing her experience in local government.

LEGAL BRIEFS

In a recent decision (DeLaurentis v. Vanio et al., No. 13168, May 1, 1976) the Montana Supreme Court has addressed the legal distinction between "modular" and "mobile" homes.

The plaintiffs, in this case, brought an action to enforce a restrictive covenant prohibiting the use of trailers or mobile homes as permanent residences within a Butte subdivision. The trail court found that the structure in question was a modular rather than a mobile home and, thus, was not excluded by the covenant.

The structure, known as a "Barrington double wide mobile home", consisted of two units, each measuring 12 feet wide by 64 feet long, which join together to form a home 24 feet wide by 64 feet long. It had a shingled roof and house-type siding and was of frame construction. Each unit was received from the manufacturer with wheels and axles and was sold to one of the defendants with the wheels and

axles intact. The structure was manufactured in Idaho and was certified by the Recreation and Mobile Home Department of that state. It was purchased from a mobile home dealer in Butte and was to be placed on a permanent concrete foundation.

The Court noted that the Montana legislature, in sections 69-2105(14) and 69-2122, R.C.M., 1947, has given the State Department of Administration the authority to adopt a definition of "mobile home" for purposes of implementing building codes within the state. This definition, which the Court found to be controlling, provides that:

Mobile home means any dwelling unit larger than two hundred fifty-six (256) square feet in area which is either wholly or in substantial part manufactured at an off-site location and any movable or portable dwelling over thirty-two (32) feet in length and over eight (8) feet wide, constructed to be towed on its own chassis and designed without a permanent foundation for year-round occupancy, which includes one (1) or more components that can be retracted for towing purposes and subsequently expanded for additional capacity, or of two (2) or more units separately towable but designed to be joined into one (1) integral unit, as well as a portable dwelling composed of a single unit. MAC 2-2.10(6)-S10220(13); (emphasis suppled by Court).

In reversing the lower court's decision the Court found that the structure in question satisfied this definition and was prohibited by the covenant.

The U.S. Supreme Court has declined to review Petaluma, California's controversial growth management ordinance which limits construction of new multiple family housing units to no more than 500 per year.

The Court's action leaves standing the Ninth U.S. Circuit Court of Appeal's decision upholding the validity of the ordinance.

In an informal interpretation of the Montana Economic Land Development Act (House Bill 672) Attorney General Robert L. Woodahl has clarified the application of section 84-7526 of the Act to zoned cities.

The Act requires every city and county in the state to develop a land use plan which, when approved by the Department of Revenue, is to serve as the basis for property tax assessment. Subsequently, land uses which conform to the plan are to be encouraged through reduced property valuations, and non-conforming uses are to be discouraged through the imposition of assessment penalties.

The Act allows counties and unzoned cities until January 1, 1978 to prepare the required land use plan. Cities which had adopted municipal zoning are required to tax real property according to taxation provisions under HB 672 beginning January 1st, 1976.

In a letter to former DCA Director Ron Richards dated March 22, 1976, the Attorney General said that section 84-7526 applies only to cities which had adopted zoning compatible with the Act on or before May 13, 1975 (the date the bill became law) and not to cities which adopted zoning after that date.

Mr. Woodahl also indicated that although the stringent notice and hearing requirements of section 84-7505 do not apply to cities affected by section 84-7526, the local option provision of section 84-7506 does apply to these cities.

Consequently, the governing bodies of zoned cities may put the question of implementation of the Act to a vote of the electorate.

IN-HOUSE TRANSFER

The department's eastern Montana field assistant position, which was recently vacated when Ottis Hill assumed field assistant duties in Bozeman, has been

filled.

Stan Steadman, senior planner in Glendive, will transfer from the planning division May 3 and take over field assistant responsibilities. Steadman has been with the division for over a year; he will remain in Glendive and continue working out of the eastern Montana field office.

MAP-AMPB NEWS

Officers elected in March to head the Montana Association of Planners (MAP) will be officially installed at a joint meeting of MAP members and the Association of Montana Planning Boards (AMPB) May 26-28 in Lewistown at the Yogo Inn.

Outgoing President, John Crowley, Director of the Missoula City-County Planning Board, will install Dan Obermeyer, of the Missoula office, as 1976 president at the business meeting Thursday, May 27; Pete Lenmark, formerly with the Helena City-County Planning Board, will be replaced by Stan Steadman, DCA field assistant; and Orin Olsgaard, Missoula staff, will take over the secretary-treasurer's office previously held by Karyn Robb, also of the Missoula staff.

Registration for the joint meeting will begin the evening of May 26 at 7:00. Business meetings and presentations by ASPO and DCA's Research and Information Division will be held the morning of May 27. Guest luncheon speaker will be Judith Carlson, DCA Director.

The afternoon of the 27th will begin panel presentations scheduled for the duration of the meeting covering themes of "Earth", "Wind", "Fire", and "Water."

Robert L. Woodahl, Attorney General, will be guest dinner speaker Thursday evening.

Further particulars of the meeting can be obtained by writing MAP President Dan Obermeyer, Missoula City-County Planning Board,301 W. Alder, Missoula, 59801 or Marcia Staigmiller, President, AMPB, Eden Route, Great Falls 59401.

UMTA 16(b)(2) PROGRAM FY 76

Private, non-profit organizations representing the elderly and handicapped will be receiving an information packet shortly detailing the Urban Mass Transit Administration's Section 16(b)(2) second year capital transportation assistance program.

This program provides 80% funding to provide special transportation equipment to meet the needs of the elderly and handicapped, such as purchase of buses, shelters, wheelchair lifts, ramps, etc. Operating costs are not eligible for funding under this program.

Full particulars can be obtained by contacting either Byron Roberts or Charleen Radke of the planning division.

COUNTY COAL TAX FUNDS

Montana's 56 counties have now received their second quarterly payment from the county land planning fund set up under Senate Bill 87, which establishes a 30% coal severance tax.

Each county receives a payment quarterly to be spent on land use planning, land inventories or land use classifications for planning or taxation purposes.

Surplus moneys at the end of the fiscal year revert to the state educational trust fund, also established by SB 87 and because only two months remain until the end of the fiscal year, counties should have developed by now a program for expending their county planning funds in accordance with SB 87.

The third payment to counties will be made the second week of June, and the fact that only 2-3 weeks remain then until June 30 magnifies the

need for a program to expend or encumber the funds.

Funds will not be considered surplus if they have been committed through a contractual or other binding agreement. Funds can be encumbered by signing such agreements as contracts or purchase orders with private firms, consultants or public agencies, including incorporated cities or local planning boards.

County commissioners may wish to work with their planning boards toward using land planning funds in worthwhile countywide projects.

SUBDIVISION REVIEW

The planning division is currently studying Montana's subdivision review process to determine ways in which the existing approaches to subdivision regulation could be streamlined and made more equitable and effective.

The division is also examining the State Model Subdivision Regulations which have been adopted by many local governments and will be reviewing the State Minimum Requirements for Local Subdivision Regulations adopted by DCA and the Subdivision and Platting Act itself. Suggestions from our readers to help achieve this goal are welcomed.

MAIN STREET MONTANA

A booklet of illustrations entitled "Main Street Montana--Beautification on a Budget" will be distributed to local civic clubs and organizations free of cost during the next several weeks.

Published by the planning division and illustrated by associate planner, Bill Schweyen, the booklet is intended to help community groups undertake projects to enhance the physical environment of their downtown business community.

Most of the ideas for beautification projects in the booklet are designed to be done at little or no cost. The booklet indicates where best to construct a project, how to construct the project and sources of free natural vegetation.

Additional copies of the booklet may be obtained from the planning division for $2.50.

RURAL PLANNING TEXT

Planners in Montana have long been aware of the need for an authoritative text on rural planning--a text which would provide the kind of basic knowledge relative to rural planning which has previously been available for urban planning through the International City Managers' Association text, "Principles and Practice of Urban Planning" and the Community Builders Handbook.

The American Society of Planning Officials (ASPO) working with planners from the states of Montana, Wyoming, North and South Dakota and the Old West Commission, has secured a grant for the purpose of producing just such a text.

Subjects included in the text are tentatively identified to be: 1) Identification and Evaluation of Planning Process in Rural Areas; 2) Identification and Analysis of Methods and Techniques used in Rural Planning; 3) Identification and Evaluation of Standards for Rural Development; 4) Identification of Technical Assistance Sources for Rural Planning; and 5) Special Issues in Rural Planning and Development.

MORE COUNTY PLANNING BOARDS

Roosevelt became the state's 48th county and Pondera the 49th to create countywide planning boards.

Representatives on the Roosevelt County Planning Board include Dennis Nelson, John Warmbrod, Jr., Russell Zimmerman, Steve Dethman, Harry Swank, Jr., Oscar W. Olson, Merton G. Purvis, Arnold Barr and Kenneth Sage.

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Members appointed to the Pondera County Planning Board are Ray Mortz, Herb Schmidt, Tony Verstraete, Ron Warwick, Eugene Stoltz, A.L. Van Auken, and Bud Olness.

DISTRICT COUNCIL CORNER

The Old West Commission has awarded the Five Valleys Council of Governments in District 11 a $50,000 administrative expense grant for coordination planning and development activities for FY 76.

The High Plains Council for District One and Central Montana District Six Council will apply for Old West Commission grants, also.

This publication is financed in part by a HUD 701 grant.

PARKS TRANSPORTATION STUDY

The National Park Service has initiated a two-year study of long-term transportation needs within the Yellowstone-Teton National Parks and surrounding area. The study will focus on future visitor demands for recreational use of the region as they relate to transportation and land use.

The major goal of the study is to develop alternative transportation plans consistent with federal development policy.

The gateway counties of Gallatin, Park and Carbon and the communities within those counties are encouraged to stay abreast of this study.

For further information, contact John Andrews, planning division, 449-3757.

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